

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

1215 PINE, LLC, and	)	
THE 1215 PINE PARTNERSHIP,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	No. 4:05-CV-1532 (CEJ)
	)	
THE TRAVELERS INSURANCE	)	
COMPANY, et al.,	)	
	)	
Defendants.	)	

**MEMORANDUM AND ORDER**


This matter is before the Court on the second motion of defendant DeWitt Insurance Company (DeWitt Insurance) to dismiss plaintiffs' claims for failure to state a claim for relief, pursuant to Rule 12(b)(6), Fed.R.Civ.P. Plaintiffs oppose the motion.

On March 10, 2006, the Court granted the motion of DeWitt Insurance to dismiss plaintiffs' claims. Also on March 10, 2006, plaintiffs timely filed an amended complaint that included DeWitt Insurance as a defendant. DeWitt Insurance contends that the amended complaint does not cure the deficiencies in the original complaint and again seeks dismissal. In response to the motion, plaintiffs acknowledge that the amended complaint does not materially alter the allegations with respect to DeWitt Insurance. Plaintiffs further ask the Court to accept their opposition to the first motion to dismiss as if fully re-filed in opposition to the present motion.

Based upon its review of the amended complaint, the Court concludes that plaintiffs fail to state a claim for relief with respect to defendant DeWitt Insurance.

Accordingly,

**IT IS HEREBY ORDERED** that the second motion of defendant DeWitt Insurance Company to dismiss for failure to state a claim [#37] is **granted**.

  
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CAROL E. JACKSON  
UNITED STATES DISTRICT JUDGE

Dated this 24th day of March, 2006.